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**OCT 09 2007**

**OFFICE OF PETITIONS**

CANTOR COLBURN, LLP  
55 GRIFFIN ROAD SOUTH  
BLOOMFIELD, CT 06002

In re Application of Hayward et al.	:	
Application No. 09/595,201	:	Decision on Petition
Filing Date: June 16, 2000	:	
Attorney Docket No. MAR-0003	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 5, 2007, to revive the above-identified application.

The petition is **dismissed**.

Facts:

The original application papers, filed June 16, 2000, stated correspondence should be sent to:

Cantor Colburn, LLP  
55 Griffin Road South  
Bloomfield, CT 06002

The Office entered the address listed above as the address of record.

On October 27, 2000, applicants filed a signed declaration for the instant application. The declaration stated correspondence should be sent to:

Michael A. Cantor, Esq.  
Cantor Colburn LLP  
88 Day Hill Road  
Windsor, CT 06095

After receipt of the signed declaration, the Office properly changed the address of record to the address listed on the declaration.

The Office mailed a non-final Office action to the address of record on March 1, 2001. The Office action set a shortened statutory period for reply of three (3) months. Therefore, a reply was due on or before June 1, 2001. Since a reply was not filed, the application became abandoned on June 2, 2001.

The Office action was returned undelivered by the USPS. The USPS stamp on the returned envelope states, "undeliverable as addressed - forwarding address expired."

On October 5, 2001, petitioner sent the examiner a letter with information proving the transmittal letter filed with the original papers listed the "Griffin Road" address as the correspondence address.

The examiner mailed a Notice of Abandonment on October 12, 2001.

The Notice of Abandonment was returned undelivered by the USPS. The USPS stamp on the returned envelope states, "undeliverable as addressed - forwarding address expired."

An Associate Power of Attorney, Request for a Change of Address, and a "Status Request" letter, were filed July 2, 2004. The request to change the address was signed by the individual given associate power of attorney by the power of attorney paper filed the same day. The request to change the address stated the correspondence address of record should be the address associated with Customer Number 23413, which was, and is,

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The Associate Power of Attorney paper was filed July 2, 2004. A change to 37 CFR 1.34 eliminating Associate Power of Attorney practice became effective June 25, 2004. See Revision of Power of Attorney and Assignment Practice, 69 Fed. Reg. 29865 (May 26, 2004), 1283 Off. Gaz. 148 (Jun. 22, 2004). However, since the Associate Power of Attorney was mailed in compliance with 37 CFR 1.8(a) on June 15, 2004, the papers filed July 2, 2004, were proper. The address of records has been changed to the address associated with Customer No. 23414.

On November 14, 2005, petitioner filed a petition under 37 CFR 1.181 to withdraw the holding of abandonment. A decision dismissing the petition was mailed January 19, 2006. The decision stated the Office had correctly mailed the non-final Office action to the address designated as the address of record.

The January 19, 2006 decision stated petitioner might wish to consider filing a petition under 37 CFR 1.137(b).

*More than 15 months* after the Office mailed the January 19, 2006 decision, petitioner filed the instant petition under 37 CFR 1.137(b).

#### Discussion:

37 CFR 1.137(b)(3) states, "The Director may require additional information where there is a question whether the delay was unintentional." In view of the delay in the filing of a petition under 37 CFR 1.137(b), the Office seeks additional information regarding reasons for delay in taking steps to revive the application.

In order for a petition under 37 CFR 1.137(b) to be granted, the *entire* period of abandonment must be unintentional. The application became abandoned on June 2, 2001.

Petitioner should provide the information listed below.

- (1) Petitioner should state the date petitioner first learned the application was abandoned?
- (2) If the date petitioner discovered the application was abandoned was on or before August 14, 2005, petitioner should provide an explanation for any delay in filing the petition to withdraw the holding of abandonment on November 14, 2005.
- (3) Petitioner should fully explain and discuss the delay from January 19, 2006, until the date the instant petition was filed.

The response to the instant decision must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137b)."

The response to the instant decision should be submitted by EFS Web. If the response is not submitted electronically, the response should be addressed as follows:

By mail: Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300  
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office  
Customer Service Window  
Randolph Building  
401 Dulany Street  
Alexandria, VA 22314

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.



Charles Steven Brantley  
Senior Petitions Attorney  
Office of Petitions